

# TASMANIAN PLANNING COMMISSION



## DECISION

<b>Planning scheme</b>	Tasmanian Planning Scheme - Clarence
<b>Amendment</b>	PDPSAMEND-2021-022801 – Rezone land at Lindisfarne from the Low Density Residential Zone and the Rural Living Zone to the General Residential Zone
<b>Planning authority</b>	Clarence
<b>Date of decision</b>	15 August 2022

## Decision

The draft amendment is modified under section 40N(1)(b) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 40Q.

John Ramsay  
**Delegate (Chair)**

Michael Hogan  
**Delegate**

Nick Heath  
**Delegate**

## REASONS FOR DECISION

### Background

#### Substantial modification under section 35KB

On 24 June 2021 the Commission published its decision to substantially modify part of the Clarence draft Local Provisions Schedule (draft LPS).

Following amendments to *Land Use Planning and Approvals Act 1993* (the Act) on 14 July 2021, the Commission published its final decision on the Clarence draft LPS on 1 September 2021. As part of that decision, the Commission decided under sections 87H and 35KB(1) of the Act that the substantial modifications should be made as draft amendments to the Clarence Local Provisions Schedule (LPS).

The Clarence LPS (as modified) became effective on 13 October 2021.

The subject draft amendment is one of the draft amendments directed by the Commission under section 35KB(1) of the Act. The Clarence planning authority has publicly exhibited the draft amendment consistent with section 40G, and provided the Commission with its section 40K report.

#### Amendment

Rezone land at Lindisfarne from the Low Density Residential Zone and the Rural Living Zone to the General Residential Zone.

#### Site information

The draft amendment applies the General Residential Zone to some parcels of land currently within the Low Density Residential Zone at Katrina Court, Jove Court, Radiata Drive, Wassell Place, and Flagstaff Gully Road, Lindisfarne, and also to land currently within the Rural Living Zone at 16 Kent Street, Lindisfarne. The draft amendment also applies the General Residential Zone to a parcel of land within the Open Space Zone at 22 Radiata Drive, Lindisfarne.

The subject land is predominantly developed with single dwellings and adjoins existing areas of the General Residential Zone at Lindisfarne.

#### Issues raised in representations

One representation was received that was in support of the draft amendment.

The draft amendment was referred to TasWater under section 56S of the *Water and Sewerage Industry Act 2008*. In response TasWater made a representation stating no objection to the draft amendment and that TasWater did not wish to attend any hearing.

#### Planning authority's response to the representations

The planning authority considered the representations and recommended:

- the issues raised in the representation do not warrant amendments to the draft amendment; and
- that 22 Radiata Drive be retained within the current zoning of the Open Space Zone, as it is part of a large public open space network.

### **Date and place of hearing**

The hearing was held at the Commission's office on Level 3, 144 Macquarie Street, Hobart on 4 August 2022.

### **Appearances at the hearing**

Planning authority: Evan Boardman, Planning Consultant

### **Consideration of the draft amendment**

1. Under section 40M of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the draft amendment to the LPS and the representations, statements and recommendations contained in the planning authority's section 40K report and any information obtained at a hearing.
2. A hearing was convened to assist the Commission consider the issues in the representations.
3. The Commission must also consider whether the draft amendment meets the LPS criteria as set out under section 34(2) of the Act:
  - (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
  - (b) is in accordance with section 32; and
  - (c) furthers the objectives set out in Schedule 1; and
  - (d) is consistent with each State policy; and
  - (da) satisfies the relevant criteria in relation to the TPPs; and
  - (e) as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates; and
  - (f) has regard to the strategic plan, prepared under section 66 of the *Local Government Act 1993*, that applies in relation to the land to which the relevant planning instrument relates; and
  - (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates;
  - (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.
  - (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.
4. The Commission considers the draft amendment meets the LPS Criteria. Where relevant, further detail is provided below.

### **Regional land use strategy**

5. The relevant regional land use strategy is the Southern Tasmania Regional Land Use Strategy 2010-2035 (regional strategy).
6. In the 40K report, the planning authority noted the area is within the Urban Growth Boundary of the regional strategy, that all properties can be connected to reticulated water and sewer, and that no objection was received from TasWater.

7. At the hearing, no further information was provided.

### **Commission consideration**

8. The Commission agrees with the planning authority that the land is within the Urban Growth Boundary and does not have any constraints for servicing. The Commission considers that, as the land is already subdivided, and nearly fully developed with single dwellings, the rezoning to the General Residential Zone is not inconsistent with the regional strategy.

### **Guideline No. 1**

9. In the decisions and reasons to substantially modify part of the Clarence draft LPS dated 24 June 2021, the Commission considered that the zone revision would be consistent with Guideline No. 1 – Local Provisions Schedule (LPS): zone and code application, issued under section 8A of the Act.
10. At the hearing, no further information was provided.

### **Commission consideration**

11. The Commission considers the application of the Low Density Residential Zone to the land is inconsistent with LDRZ1 of Guideline No. 1 because the land has no particular constraints to development.
12. The Commission considers that the draft amendment is consistent with GRZ 1 of Guideline No. 1 because the lots are of a size consistent with the General Residential Zone, and the land is able to be connected to reticulated water and sewerage supply.

### **State Policies and Resource Management and Planning System Objectives**

13. The Commission finds that no State Policies are relevant to the draft amendment and that it seeks to further the Objectives of the Resource Management and Planning System in Schedule 1 of the Act.

### **Modifications required to draft amendment**

14. Under section 40M of the Act the Commission must consider whether modifications to a draft amendment of an LPS ought to be made.
15. The Commission notes the submission of the planning authority in the 40K report that the inclusion of 22 Radiata Drive in the rezoning to the General Residential Zone is likely an administrative error. The planning authority submitted that the land is currently within the Open Space Zone, is owned by Council, and provides access to land within the Open Space Zone at 95A Gordons Hill Road.
16. The Commission agrees that the Open Space Zone should be applied to the land.

### **Decision on draft amendment**

17. Subject to the modifications described above, the Commission is satisfied that the draft amendment meets the LPS criteria and gives its approval.

### **Attachments**

Annexure A – Modified amendment PDPSAMEND-2021-022801

## Annexure A

Modified amendment PDPSAMEND-2021-022801, Tasmanian Planning Scheme - Clarence

1. Rezone the land shown in Figure 1 below from the Low Density Residential Zone and the Rural Living Zone to the General Residential Zone.

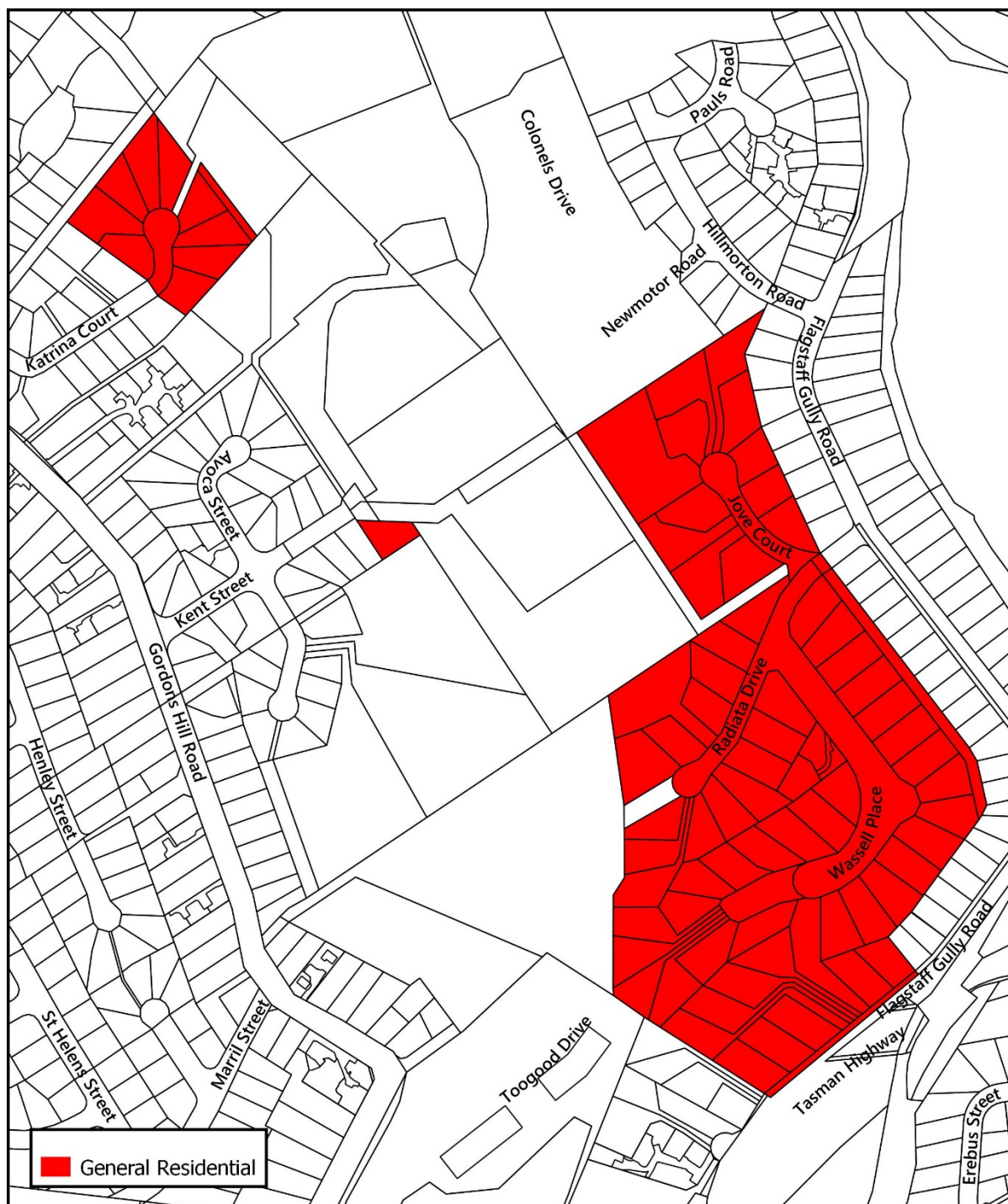


Figure 1 - Modified amendment PDPSAMEND-2021-022801